

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
 )  
AMENDMENTS TO 35 ILL. ADM. CODE 201, ) R06-  
PERMITS AND GENERAL PROVISIONS ) (Rulemaking – Air)

**NOTICE**

TO: Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601-3218

Matthew Dunn, Chief  
Division of Environmental Enforcement  
Office of the Attorney General  
188 West Randolph St., 20<sup>th</sup> Floor  
Chicago, IL 60601

Virginia Yang  
Deputy Legal Counsel  
Illinois Department of Natural Resources  
One Natural Resources Way  
Springfield, IL 62702

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the REGULATORY PROPOSAL entitled “AMENDMENTS TO 35 ILL. ADM. CODE 201, PERMITS AND GENERAL PROVISIONS”, MOTION FOR SPECIAL MEETING AND EXPEDITED REVIEW and APPEARANCE of the Illinois Environmental Protection Agency a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: \_\_\_\_\_  
Gina Roccaforte  
Assistant Counsel  
Division of Legal Counsel

DATED: June 20, 2006

1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544  
(217) 782-9143 (TDD)

**THIS FILING IS SUBMITTED  
ON RECYCLED PAPER**

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
 )  
AMENDMENTS TO 35 ILL. ADM. CODE 201, ) R06-  
PERMITS AND GENERAL PROVISIONS ) (Rulemaking – Air)

**TABLE OF CONTENTS OF REGULATORY SUBMITTAL**

1. Notice of Filing Proposal
2. Appearance of Gina Roccaforte, Assistant Counsel for the Illinois Environmental Protection Agency
3. Statement of Submittal by Director Douglas P. Scott
4. Motion for Special Meeting and Expedited Review
5. Statement of Reasons
6. Certification of Origination
7. Proposed Amendments to 35 Ill. Adm. Code 201, Permits and General Provisions
8. Certificate of Service

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
 )  
AMENDMENTS TO 35 ILL. ADM. CODE 201, ) R06-  
PERMITS AND GENERAL PROVISIONS ) (Rulemaking – Air)

**MOTION FOR SPECIAL MEETING AND EXPEDITED REVIEW**

NOW COMES Proponent, the Illinois Environmental Protection Agency (Illinois EPA), by one of its attorneys, and pursuant to 35 Ill. Adm. Code 101.500 and 101.512, respectfully submits this Motion for Special Meeting and Expedited Review (Motion). In support of its Motion, the Illinois EPA states as follows:

1. The Illinois EPA issues construction permits under the Prevention of Significant Deterioration (PSD) program pursuant to 40 CFR § 52.21 under a delegation agreement with the United States Environmental Protection Agency (USEPA).
2. As a result of the delegated program, an appeal of a PSD permit issued in Illinois is subject to the procedural requirements of the federal regulations at 40 CFR Part 124, which provide that final permits decisions are automatically stayed for 30 days after issuance. In a number of other states, USEPA has approved state programs that do not provide for an automatic 30-day stay.
3. Increasingly, there is interstate competition for economic development and Illinois is at a disadvantage in competing for these new projects because of the automatic stay disparity between its PSD delegated program and surrounding states' PSD approved programs. The proposed rulemaking will serve to eliminate the automatic 30-day stay, thereby "leveling the playing field" in Illinois while not causing any adverse impact to the environment. This is

the sole purpose of this regulatory proposal; this proposal does not otherwise alter nor affect 40 CFR § 52.21 or 40 CFR Part 124.

This rule, if adopted, will be subject to approval by USEPA, and cannot be relied upon for PSD permits until USEPA has approved it as part of Illinois' State Implementation Plan.

4. For the reason stated above, the regulations need to be adopted in an expedited manner.

5. Therefore, the Illinois EPA requests that the Board hold a special meeting to accept this rulemaking proposal.

6. In addition, the Illinois EPA requests that should the Board accept this rulemaking proposal, that the Board proceed to First Notice under the Illinois Administrative Procedure Act, 5 ILCS 100/1-1 *et seq.*, without reaching a decision on the merits, by accepting the regulatory language proposed by the Illinois EPA in this rulemaking proposal only for purposes of First Notice.

7. The Illinois EPA also requests that the requisite public hearing be scheduled as soon as possible in accordance with Section 28(a) of the Environmental Protection Act, 415 ILCS 5/28(a).

8. The Illinois EPA believes that the information necessary for the Board to proceed to First Notice in this rulemaking and schedule a public hearing is contained in the Statement of Reasons. If more information is needed, the Illinois EPA will fully cooperate to expeditiously provide the same to the Board and its hearing officer.

9. As required by 35 Ill. Adm. Code 101.512, this Motion is accompanied by an Affirmation attesting that the facts cited herein are true.

WHEREFORE, for the reasons set forth above, the Illinois EPA respectfully requests that the Board grant its Motion and hold a special meeting to accept this rulemaking proposal and expedite review in this matter.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: \_\_\_\_\_  
Gina Roccaforte  
Assistant Counsel  
Division of Legal Counsel

DATED: June 20, 2006

1021 North Grand Avenue East  
P. O. Box 19276  
Springfield, IL 62794-9276  
217/782-5544

**THIS FILING IS SUBMITTED  
ON RECYCLED PAPER**

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
 )  
AMENDMENTS TO 35 ILL. ADM. CODE 201, ) R06-  
PERMITS AND GENERAL PROVISIONS ) (Rulemaking – Air)

**AFFIRMATION**

I, Gina Roccaforte, under oath, hereby state and affirm that I am an Assistant Counsel for the Illinois EPA and the facts cited in the foregoing Motion for Special Meeting and Expedited Review are true and correct to the best of my information and belief.

\_\_\_\_\_  
Gina Roccaforte  
Assistant Counsel  
Division of Legal Counsel

SUBSCRIBED AND SWORN TO BEFORE ME

This \_\_ day of \_\_\_\_\_, 2006

\_\_\_\_\_  
Notary Public

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
 )  
AMENDMENTS TO 35 ILL. ADM. CODE 201, ) R06-  
PERMITS AND GENERAL PROVISIONS ) (Rulemaking – Air)

**APPEARANCE**

The undersigned hereby enters her appearance as an attorney on behalf of the Illinois Environmental Protection Agency.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: \_\_\_\_\_  
Gina Roccaforte  
Assistant Counsel  
Division of Legal Counsel

DATED: June 20, 2006

1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
(217) 782-5544  
(217) 782-9143 (TDD)

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
 )  
AMENDMENTS TO 35 ILL. ADM. CODE 201, ) R06-  
PERMITS AND GENERAL PROVISIONS ) (Rulemaking – Air)

**CERTIFICATION OF ORIGINATION**

NOW COMES the Illinois Environmental Protection Agency to certify in accordance with 35 Ill. Adm. Code 102.202(i) that this proposal for amendments to 35 Ill. Adm. Code 201 amends the most recent version of the rules as published on the Illinois Pollution Control Board's Web site.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: \_\_\_\_\_  
Gina Roccaforte  
Assistant Counsel  
Division of Legal Counsel

DATED: June 20, 2006

1021 North Grand Avenue East  
PO Box 19276  
Springfield, IL 62794-9276  
(217) 782-5544  
(217) 782-9143 (TDD)



**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

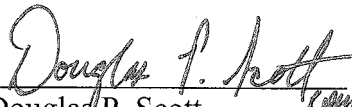
IN THE MATTER OF: )  
AMENDMENTS TO 35 ILL. ADM. CODE 201, ) R06-  
PERMITS AND GENERAL PROVISIONS ) (Rulemaking – Air)

**ILLINOIS ENVIRONMENTAL PROTECTION AGENCY**  
**PROPOSAL OF REGULATIONS**

The Illinois Environmental Protection Agency moves that the Illinois Pollution Control Board adopt the attached regulations.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
Douglas P. Scott  
Director

DATED: June 20, 2006

1021 North Grand Avenue East  
P. O. Box 19276  
Springfield, IL 62794-9276  
217/782-5544

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

IN THE MATTER OF: )  
 )  
AMENDMENTS TO 35 ILL. ADM. CODE 201, ) R06-  
 ) (Rulemaking – Air)  
PERMITS AND GENERAL PROVISIONS )

**STATEMENT OF REASONS**

**I. INTRODUCTION**

The Illinois Environmental Protection Agency (Illinois EPA) submits this Statement of Reasons to the Illinois Pollution Control Board (Board) pursuant to Sections 27 and 28 of the Environmental Protection Act (Act) (415 ILCS 5/27 and 28) and 35 Ill. Adm. Code 102.202 in support of the attached proposal of regulations. Included in this proposal are amendments to 35 Ill. Adm. Code 201.

**II. STATEMENT OF FACTS**

The Prevention of Significant Deterioration of Air Quality (PSD) provisions of the Clean Air Act, 42 U.S.C. §7401 *et seq.*, were enacted in 1977 to regulate new major stationary sources and major modifications to existing sources. The PSD program applies in areas in the country that are deemed to be attainment or unclassifiable with respect to national ambient air quality standards (NAAQS). 42 U.S.C. §7471. The Illinois EPA administers the PSD program (40 CFR §52.21) in Illinois through a delegation agreement with the United States Environmental Protection Agency (USEPA). PSD involves a preconstruction permitting process. Under PSD, an applicant for a major new source or modification must submit a permit application prior to commencing construction that demonstrates that emissions from the proposed facility will not cause or contribute to an exceedance of any applicable NAAQS or air quality increment, and that the proposed facility

will employ the Best Available Control Technology for all pollutants for which the source is major. 40 CFR §52.21.

### **III. PURPOSE AND EFFECT OF THE PROPOSAL**

As a result of the delegated program, an appeal of a PSD permit issued in Illinois is subject to the procedural requirements of the federal regulations at 40 CFR Part 124, which provide that final permits decisions are automatically stayed for 30 days after issuance. In a number of other states, USEPA has approved state programs that do not provide for an automatic 30-day stay.

Increasingly, there is interstate competition for economic development and Illinois is at a disadvantage in competing for these new projects because of the automatic stay disparity between its PSD delegated program and surrounding states' PSD approved programs. The proposed rulemaking will serve to eliminate the automatic 30-day stay, thereby "leveling the playing field" in Illinois while not causing any adverse impact to the environment. This is the sole purpose of this regulatory proposal; this proposal does not otherwise alter nor affect 40 C.F.R. § 52.21 or 40 C.F.R. Part 124.

This rule, if adopted, will be subject to approval by USEPA, and cannot be relied upon for PSD permits until USEPA has approved it as part of Illinois' State Implementation Plan.

### **IV. GEOGRAPHIC REGIONS AND SOURCES AFFECTED**

The geographic region subject to the proposed regulations for sources are those areas in the State that are deemed to be attainment or unclassifiable with respect to national ambient air quality standards.

**V. TECHNICAL FEASIBILITY AND ECONOMIC REASONABLENESS**

The amendments to Part 201 are being proposed to ensure that Illinois is not at a disadvantage in competing for new economic development. The proposed amendments make inapplicable provisions relating to an automatic 30-day stay after issuance of a final PSD construction permit and do not impose new emission limitations or require new control devices on affected sources. Therefore, an analysis of technical feasibility and economic reasonableness is not appropriate.

**VI. SYNOPSIS OF TESTIMONY**

The Illinois EPA plans to call Christopher Romaine as a witness at hearing. Mr. Romaine, Manager of the Illinois EPA's Construction Unit in the Permit Section, will testify about the proposed amendments in general and will assist in answering questions. Written testimony will be submitted prior to hearing in accordance with the Board's procedural rules.

**VII. INCORPORATIONS BY REFERENCE**

No materials are being incorporated by reference within the proposed amendments.

**VIII. PUBLISHED STUDY OR RESEARCH REPORT**

No published study or research report was used in developing the proposed amendments.

**IX. THE ILLINOIS EPA'S PROPOSAL**

The following is a summary of the Illinois EPA's proposal:

**35 Ill. Adm. Code 201**

**SUBPART M: PSD CONSTRUCTION PERMITS**

**Section 201.501**      **PSD Construction Permits**

This Section relates to any final permit decision by the Illinois EPA relating to a PSD construction permit issued pursuant to Sections 9.1 and 39 of the Act implementing Section 165 of the Clean Air Act. Notwithstanding the provisions of 40 C.F.R. 124.15(b), a final PSD construction permit shall become effective on the date of issuance unless otherwise stated in the final permit. However, any person with standing in accordance with 40 C.F.R. 124.19 may seek to file an appeal with the United States Environmental Protection Agency's Environmental Appeals Board and may request a stay of the permit. This Section applies to permits issued on or after the effective date of the approval of this Subpart as part of Illinois' State Implementation Plan under the Clean Air Act.

**X. CONCLUSION**

For the reasons stated above, the Illinois EPA hereby submits this regulatory proposal and respectfully requests the Board to adopt these rules for the State of Illinois.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: \_\_\_\_\_

Gina Roccaforte  
Assistant Counsel  
Division of Legal Counsel

DATED: June 20, 2006  
1021 N. Grand Ave. East  
P.O. Box 19276  
Springfield, IL 62794-9276  
(217) 782-5544

ILLINOIS REGISTER

---

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE B: AIR POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER a: PERMITS AND GENERAL PROVISIONS

PART 201  
PERMITS AND GENERAL PROVISIONS

SUBPART A: DEFINITIONS

Section	
201.101	Other Definitions
201.102	Definitions
201.103	Abbreviations and Units
201.104	Incorporations by Reference

SUBPART B: GENERAL PROVISIONS

Section	
201.121	Existence of Permit No Defense
201.122	Proof of Emissions
201.123	Burden of Persuasion Regarding Exceptions
201.124	Annual Report
201.125	Severability
201.126	Repealer

SUBPART C: PROHIBITIONS

Section	
201.141	Prohibition of Air Pollution
201.142	Construction Permit Required
201.143	Operating Permits for New Sources
201.144	Operating Permits for Existing Sources
201.146	Exemptions from State Permit Requirements
201.147	Former Permits
201.148	Operation Without Compliance Program and Project Completion Schedule
201.149	Operation During Malfunction, Breakdown or Startups
201.150	Circumvention
201.151	Design of Effluent Exhaust Systems

SUBPART D: PERMIT APPLICATIONS AND REVIEW PROCESS

ILLINOIS REGISTER

---

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section	
201.152	Contents of Application for Construction Permit
201.153	Incomplete Applications (Repealed)
201.154	Signatures (Repealed)
201.155	Standards for Issuance (Repealed)
201.156	Conditions
201.157	Contents of Application for Operating Permit
201.158	Incomplete Applications
201.159	Signatures
201.160	Standards for Issuance
201.161	Conditions
201.162	Duration
201.163	Joint Construction and Operating Permits
201.164	Design Criteria
201.165	Hearings
201.166	Revocation
201.167	Revisions to Permits
201.168	Appeals from Conditions
201.169	Special Provisions for Certain Operating Permits
201.170	Portable Emission Units

SUBPART E: SPECIAL PROVISIONS FOR OPERATING PERMITS FOR CERTAIN  
SMALLER SOURCES

Section	
201.180	Applicability (Repealed)
201.181	Expiration and Renewal (Repealed)
201.187	Requirement for a Revised Permit (Repealed)

SUBPART F: CAAPP PERMITS

Section	
201.207	Applicability
201.208	Supplemental Information
201.209	Emissions of Hazardous Air Pollutants
201.210	Categories of Insignificant Activities or Emission Levels
201.211	Application for Classification as an Insignificant Activity
201.212	Revisions to Lists of Insignificant Activities or Emission Levels

SUBPART G: EXPERIMENTAL PERMITS  
(Reserved)

ILLINOIS REGISTER

---

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART H: COMPLIANCE PROGRAMS AND PROJECT COMPLETION  
SCHEDULES

Section	
201.241	Contents of Compliance Program
201.242	Contents of Project Completion Schedule
201.243	Standards for Approval
201.244	Revisions
201.245	Effects of Approval
201.246	Records and Reports
201.247	Submission and Approval Dates

SUBPART I: MALFUNCTIONS, BREAKDOWNS OR STARTUPS

Section	
201.261	Contents of Request for Permission to Operate During a Malfunction, Breakdown or Startup
201.262	Standards for Granting Permission to Operate During a Malfunction, Breakdown or Startup
201.263	Records and Reports
201.264	Continued Operation or Startup Prior to Granting of Operating Permit
201.265	Effect of Granting of Permission to Operate During a Malfunction, Breakdown or Startup

SUBPART J: MONITORING AND TESTING

Section	
201.281	Permit Monitoring Equipment Requirements
201.282	Testing
201.283	Records and Reports

SUBPART K: RECORDS AND REPORTS

Section	
201.301	Records
201.302	Reports

SUBPART L: CONTINUOUS MONITORING

Section	
201.401	Continuous Monitoring Requirements
201.402	Alternative Monitoring



ILLINOIS REGISTER

---

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

201.403	Exempt Sources
201.404	Monitoring System Malfunction
201.405	Excess Emission Reporting
201.406	Data Reduction
201.407	Retention of Information
201.408	Compliance Schedules

SUBPART M: PSD CONSTRUCTION PERMITS

Section

201.501      PSD Construction Permits

201.APPENDIX A	Rule into Section Table
201.APPENDIX B	Section into Rule Table
201.APPENDIX C	Past Compliance Dates

AUTHORITY: Implementing Sections 10, 39, and 39.5 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/10, 27, 39, and 39.5].

SOURCE: Adopted as Chapter 2: Air Pollution, Part I: General Provisions, in R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg.30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13579; amended in R82-1 (Docket A) at 10 Ill. Reg. 12628, effective July 7, 1986; amended in R87-38 at 13 Ill. Reg. 2066, effective February 3, 1989; amended in R89-7(A) at 13 Ill. Reg. 19444, effective December 5, 1989; amended in R89-7(B) at 15 Ill. Reg. 17710, effective November 26, 1991; amended in R93-11 at 17 Ill. Reg. 21483, effective December 7, 1993; amended in R94-12 at 18 Ill. Reg. 15002, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15760, effective October 17, 1994; amended in R96-17 at 21 Ill. Reg. 7878, effective June 17, 1997; amended in R98-13 at 22 Ill. Reg. 11451, effective June 23, 1998; amended in R98-28 at 22 Ill. Reg. 11823, effective July 31, 1998; amended in R02-10 at 27 Ill. Reg. 5820, effective March 21, 2003; amended in R05-19 and R05-20 at 30 Ill. Reg. 4901, effective March 3, 2006; amended at \_\_ Ill. Reg. \_\_\_\_, effective \_\_\_\_\_.

**SUBPART M: PSD CONSTRUCTION PERMITS**

Section 201.501      PSD Construction Permits

- a)      This Section relates to any final permit decision by the Agency relating to a Prevention of Significant Deterioration (PSD) construction permit issued

ILLINOIS REGISTER

---

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

pursuant to Sections 9.1 and 39 of the Act implementing Section 165 of the Clean Air Act.

- b) Notwithstanding the provisions of 40 C.F.R. 124.15(b), a final PSD construction permit shall become effective on the date of issuance unless otherwise stated in the final permit. However, any person with standing in accordance with 40 C.F.R 124.19 may seek to file an appeal with the United States Environmental Protection Agency's Environmental Appeals Board and may request a stay of the permit.
  
- c) This Section applies to permits issued on or after the effective date of the approval of this Subpart as part of Illinois' State Implementation Plan under the Clean Air Act.

(Source: Added at \_\_ Ill. Reg. \_\_\_\_, effective \_\_\_\_\_)